

COUNTY OF YORK

MEMORANDUM

DATE: December 23, 2002 (BOS Mtg. 1/21/03)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. ZT-70-02 – Group Homes, York County Planning Commission

Issue

This application has been sponsored by the Planning Commission to allow consideration of Zoning Ordinance text amendments intended to expand the eligibility criteria for temporary residency in group living arrangements typically known as “group homes.”

Background

Several months ago, an inquiry was made by the Faith for Living World Outreach Center (located on Goodwin Neck Road) concerning use regulations applicable to a facility that would serve as a temporary dwelling place for single women and their children. The stated purpose of the facility was to provide temporary shelter, counsel and assistance to women and their children coming from dysfunctional relationships and attempting to re-establish self-sufficiency. Staff understands that the church may be interested in proposing the facility on its property located between the existing church and the Winn-Dixie (former occupant) shopping center. The subject property is zoned R20 (single family residential).

After review of the specifics of this request, staff determined that the proposed use would be most similar to a “group home” but, because of the very specific residency qualifications spelled out in the Zoning Ordinance definition of *group home* – requiring that residents must be “handicapped” – it was necessary to conclude that the use was not provided for. Section 24.1-302 of the Zoning Ordinance provides that when the Zoning Administrator determines a particular use is not “materially similar” to another listed use, the issue will be forwarded to the Planning Commission for consideration and determination as to whether an amendment to establish an appropriate listing should be initiated. Subsequent to that referral, the Planning Commission sponsored this application.

Considerations

1. The principal issue to be considered in this application is whether *group home* occupancy should be limited only to “handicapped” individuals. Under current ordinance definitions and provisions, occupancy of a *group home* is limited to “*handicapped persons*” defined as individuals having:

? “a physical or mental impairment that substantially limits one or more of a person’s major life activities so that such person is incapable of living independently; or

- ? *a record of having such an impairment; or*
- ? *being regarded as having such an impairment.”*

2. Prior to 1995, the following broader eligibility criteria for residency in a *group home* was included in the Zoning Ordinance definition:

“facilities for.....[persons who are] handicapped, mentally retarded or developmentally disabled, or who because of age or other physical, psychological or social disabilities may require the protection of a group home setting to care for themselves or to facilitate the transition to a functioning member of society.”

It was under this previous language that an application was considered in 1990 for establishment of a group home intended to serve abused children. The proposed facility (for which the use permit application was ultimately denied) was considered to fit the intent of the definition under the premise that abuse constituted a form of “social disability.” Under the current definition, such an interpretation is not possible.

3. The staff and Planning Commission initially considered revisions that would have reinstated the previous wording in essentially the same form and added “relational circumstances” as one of the eligibility criteria in order to encompass the type of occupants envisioned by the Faith for Living proposal. However, after further review, and to avoid confusion with mandatory State Code provisions concerning “group homes” for up to eight (8) handicapped/disabled individuals, a proposal was developed to define two distinct types of facilities – *group homes* and *transitional homes*, as shown in attached proposed Ordinance No. 03-2. Under this proposal, facilities that serve the types of individuals specifically identified in the State Code would be categorized as *group homes*, while facilities serving the broader range of individuals would be categorized as *transitional homes*.
4. The State Code provisions, which have been in effect since 1990, require that local Zoning Ordinances consider group living arrangements for no more than eight (8) *mentally ill, mentally retarded or developmentally disabled persons* (and one or more resident counselors) to be the same as a “single family” (in other words, to allow them as a matter of right wherever single family residences are allowed). In addition, because York County’s population (56,297) falls within special population brackets established in Section 15.2-2291 B. (55,800 and 57,000; originally established for Henry County), the Code requires that facilities for no more than eight (8) *aged, infirm or disabled individuals* (and one or more resident counselors) also be considered the same as a “single family.” Effectively, these provisions mean that *group homes* serving various types of individuals must be allowed in any single-family residential zoning district if they have no more than eight (8) resident clients. However, the type of individuals to be served in the facility envisioned in the Faith for Living proposal would not qualify under these provisions, nor would facilities housing more than eight (8) “handicapped/aged/infirm” individuals. Accordingly, the proposed amendments recommend changing the definition of *group home* to closely track the wording of State Code section 15.2-2291 and to specify, as required by the COV, that *group homes* housing eight

(8) or fewer residents are permitted as a matter of right. As a companion to this change, the new category/definition for *transitional home* would be established to cover those facilities housing more than four (4) individuals with needs that do not fall under the “handicapped/aged/infirm” classifications.

5. It is important to note that these proposed amendments would not change the districts in which *group homes* or *transitional homes* will be allowed (see Section 24.1-306, Table of Land Uses). In fact, all *transitional homes*, and any *group homes* housing more than eight (8) occupants, would be subject to Special Use Permit review (whereas, *group homes* are currently permitted as a matter of right in the RMF-Multi-Family Residential District). Special Use Permit review will allow the Planning Commission and the Board to evaluate on a case-by-case basis the proposed location, surroundings, facilities and prospective types of clientele and the potential impacts associated with certain *group home* and any *transitional home* proposals. In that regard, the proposed amendments also recommend some additional performance standards. Most significant among these proposed additions is subparagraph (g), which is intended to create a relationship between lot size and the number of facility occupants that is similar to typical residential densities. These provisions would also tend to discourage proposals for *group homes* and *transitional homes* within typical residential subdivision settings where such facilities would typically generate concerns about external impacts.

Planning Commission Recommendation

The Planning Commission considered this application at its meeting on December 11, 2002. Subsequent to conducting a duly advertised public hearing, at which there were no speakers, the Commission voted (5:0) to recommend approval of the amendments contained in the attached proposed ordinance.

County Administrator's Recommendation

Facilities such as that envisioned by the Faith for Living Church can provide valuable assistance to individuals needing temporary accommodations and counseling support while trying to establish or re-establish their ability to live independently. Under appropriate performance standards, and in appropriate locations, I believe that opportunities for such facilities should be provided. The proposed amendments will bring the County's ordinance provisions into line with mandatory State Code provisions as well as the practices in other area jurisdictions where broader occupant eligibility opportunities are in place. Therefore, in accordance with the Planning Commission, I recommend approval of this application through the adoption of proposed Ordinance No. 03-2.

Carter/3337:jmc